



March 2, 1999

HOUSE BILL No. 1670

DIGEST OF HB 1670 (Updated February 23, 1999 8:27 pm - DI 96)

Citations Affected: IC 4-1; IC 22-2.

Synopsis: Lunch and rest period requirements. Requires an employer to give an employee a lunch period of no less than 30 minutes if the employee is scheduled to be on duty for six hours or more. Provides that if an employee works more than twelve consecutive hours, the employee must be given the opportunity for another lunch break. Requires an employer to provide an employee who has been on duty for two or more continuous hours with a paid rest break of ten minutes. Provides that neither rest or lunch break requirements apply when the employer has only one employee on duty during a period of four or more consecutive hours. Specifies that the terms of a negotiated collective bargaining agreement, settlement agreement, or bona fide agreement between an employee and employer are not affected. Provides that a violation is a Class C infraction and that each time a person is in violation, the person commits a separate infraction.

Effective: July 1, 1999.

Liggett

January 21, 1999, read first time and referred to Committee on Labor and Employment.
March 1, 1999, amended, reported — Do Pass.

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March 2, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1670

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-1-2-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. It is the intent of this chapter that
3 state offices be open and able to conduct public business at all times
4 during an eight and one-half (8 1/2) hour working day. Each employee
5 shall work for a full seven and one-half (7 1/2) hours each working day
6 and provision for a one (1) hour lunch period shall be provided each
7 employee. Lunch hours of employees shall be staggered to permit the
8 conduct of business at all times during a working day. **Rest breaks**
9 **shall be provided as set forth in IC 22-2-14.** It shall be lawful for
10 state offices to close their doors for business from the close of the
11 working day each Friday or in the event Friday is a legal holiday, then
12 from the close of the working day on the Thursday which immediately
13 precedes such legal holiday, until the commencement of the working
14 day on the next following Monday, or in the event Monday is a legal
15 holiday, then until the commencement of the working day on the
16 Tuesday which immediately follows such legal holiday; provided,
17 however, that the state library may be kept open until noon Saturdays

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in the discretion of the Indiana library and historical board.

SECTION 2. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS
A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
1, 1999]:

Chapter 13. Employee Lunch Breaks

Sec. 1. This chapter does not:

- (1) affect the terms of a negotiated collective bargaining agreement or settlement agreement; or
- (2) negate a bona fide agreement between an employee and employer.

Sec. 2. As used in this chapter, "employee" means a person employed or permitted to work or perform any service for remuneration or under a contract for hire, written or oral, express or implied, by an employer in any occupation. However, the term does not include the following:

- (1) A member of a religious order who is performing a service for that order.
- (2) An ordained, a commissioned, or a licensed minister, priest, rabbi, sexton, or Christian Science reader who is performing services for a religious organization.
- (3) A person who is employed as a salesperson, if all of the person's services are performed for remuneration solely by commission.
- (4) A person employed in an executive, an administrative, or a professional occupation if the person has the authority to employ or discharge.
- (5) An employee with respect to whom the federal Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Safety Act (49 U.S.C. 31502(b)) or an employee of a carrier subject to IC 8-2.1.
- (6) An employee subject to the federal Railway Labor Act (45 U.S.C. 151 et seq.).
- (7) An employee of the state subject to IC 4-1-2-1.

Sec. 3. As used in this chapter, "employer" means an individual, a partnership, an association, a limited liability company, a corporation, or a business trust. However, the term does not include the state.

Sec. 4. As used in this chapter, "duty" means the active performance of functions required by the employer and does not imply physical presence at the location of employment.

Sec. 5. (a) An employer shall provide an employee who is



scheduled to be on duty for six (6) or more consecutive hours with a lunch break of not less than thirty (30) minutes.

(b) The lunch break must be available immediately after the first four (4) hour period of duty.

(c) If an employee works more than twelve (12) consecutive hours, the employee shall be provided the opportunity for another lunch break of not less than thirty (30) minutes.

(d) If the duties of the position do not allow the employee to take a lunch break and:

(1) the lunch break normally is to be unpaid; and

(2) the employee works through the lunch break;

the employee shall be paid for the time of the lunch break at the normal rate.

(e) This section does not apply when the employer has only one (1) employee on duty during a period of four (4) or more consecutive hours.

Sec. 6. (a) A person who violates this chapter, commits a Class C infraction.

(b) Each time a person violates this chapter the person commits a separate infraction.

SECTION 3. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 14. Employee Rest Breaks

Sec. 1. This chapter does not:

(1) affect the terms of a negotiated collective bargaining agreement or settlement agreement; or

(2) negate a bona fide agreement between an employee and employer.

Sec. 2. As used in this chapter, "duty" means the active performance of functions required by the employer and does not imply physical presence at the location of employment.

Sec. 3. As used in this chapter, "employee" means a person employed or permitted to work or perform any service for remuneration or under a contract for hire, written or oral, expressed or implied, by an employer in any occupation. However, the term does not include the following:

(1) A member of a religious order who is performing a service for that order.

(2) An ordained, a commissioned, or a licensed minister, priest, rabbi, sexton, or Christian Science reader who is performing services for a religious organization.



1 (3) A person who is employed as a salesperson, if all of the
2 person's services are performed for remuneration solely by
3 commission.

4 (4) A person employed in an executive, an administrative, or
5 a professional occupation if the person has the authority to
6 employ or discharge.

7 (5) An employee with respect to whom the federal Interstate
8 Commerce Commission has power to establish qualifications
9 and maximum hours of service under the federal Motor
10 Carrier Safety Act (49 U.S.C. 31502(b)) or an employee of a
11 carrier subject to IC 8-2.1.

12 (6) An employee subject to the federal Railway Labor Act (45
13 U.S.C. 151 et seq.).

14 **Sec. 4.** As used in this chapter, "employer" means an individual,
15 a partnership, an association, a limited liability company, a
16 corporation, a business trust, and the state.

17 **Sec. 5. (a)** An employer shall provide an employee who has been
18 on duty for two (2) or more continuous hours with a paid rest
19 break of ten (10) minutes.

20 (b) The employer shall provide a rest break as provided in
21 subsection (a) after every two (2) continuous hours of work.

22 (c) If the employee has taken a lunch break after four (4)
23 continuous hours of work, as provided in IC 22-2-13-5, the
24 employee is not entitled to a rest break after the second two (2)
25 hour period.

26 (d) This section does not apply when the employer has only one
27 (1) employee on duty during a period of four (4) or more
28 consecutive hours.

29 **Sec. 6. (a)** A person who violates this chapter commits a Class
30 C infraction.

31 (b) Each time a person violates this chapter, the person commits
32 a separate infraction.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1670, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. It is the intent of this chapter that state offices be open and able to conduct public business at all times during an eight and one-half (8 1/2) hour working day. Each employee shall work for a full seven and one-half (7 1/2) hours each working day and provision for a one (1) hour lunch period shall be provided each employee. Lunch hours of employees shall be staggered to permit the conduct of business at all times during a working day. **Rest breaks shall be provided as set forth in IC 22-2-14.** It shall be lawful for state offices to close their doors for business from the close of the working day each Friday or in the event Friday is a legal holiday, then from the close of the working day on the Thursday which immediately precedes such legal holiday, until the commencement of the working day on the next following Monday, or in the event Monday is a legal holiday, then until the commencement of the working day on the Tuesday which immediately follows such legal holiday; provided, however, that the state library may be kept open until noon Saturdays in the discretion of the Indiana library and historical board."

Page 1, line 4, delete "Work" and insert "**Lunch**".

Page 2, line 20, delete "state ." and insert "**state.**".

Page 2, line 26, delete "a reasonable period" and insert "**not less than thirty (30) minutes**".

Page 2, line 27, delete "The lunch period must be as close to the middle of the" and insert "**The lunch break must be available immediately after the first four (4) hour period of duty.**".

Page 2, delete line 28.

Page 2, line 29, delete "An employee may not be required to take a lunch period" and insert "**If an employee works more than twelve (12) consecutive hours, the employee shall be provided the opportunity for another lunch break of not less than thirty (30) minutes.**".

Page 2, delete lines 30 through 31, begin a new paragraph and insert:

"(d) **If the duties of the position do not allow the employee to take a lunch break and:**

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(1) the lunch break normally is to be unpaid; and
 (2) the employee works through the lunch break;
 the employee shall be paid for the time of the lunch break at the normal rate."

Page 2, line 32, delete "(d)" and insert "(e)".

Page 2, after line 38, begin a new paragraph and insert:

"SECTION 3. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 14. Employee Rest Breaks

Sec. 1. This chapter does not:

- (1) affect the terms of a negotiated collective bargaining agreement or settlement agreement; or
- (2) negate a bona fide agreement between an employee and employer.

Sec. 2. As used in this chapter, "duty" means the active performance of functions required by the employer and does not imply physical presence at the location of employment.

Sec. 3. As used in this chapter, "employee" means a person employed or permitted to work or perform any service for remuneration or under a contract for hire, written or oral, expressed or implied, by an employer in any occupation. However, the term does not include the following:

- (1) A member of a religious order who is performing a service for that order.
- (2) An ordained, a commissioned, or a licensed minister, priest, rabbi, sexton, or Christian Science reader who is performing services for a religious organization.
- (3) A person who is employed as a salesperson, if all of the person's services are performed for remuneration solely by commission.
- (4) A person employed in an executive, an administrative, or a professional occupation if the person has the authority to employ or discharge.
- (5) An employee with respect to whom the federal Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Safety Act (49 U.S.C. 31502(b)) or an employee of a carrier subject to IC 8-2.1.
- (6) An employee subject to the federal Railway Labor Act (45 U.S.C. 151 et seq.).

Sec. 4. As used in this chapter, "employer" means an individual,



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a partnership, an association, a limited liability company, a corporation, a business trust, and the state.

Sec. 5. (a) An employer shall provide an employee who has been on duty for two (2) or more continuous hours with a paid rest break of ten (10) minutes.

(b) The employer shall provide a rest break as provided in subsection (a) after every two (2) continuous hours of work.

(c) If the employee has taken a lunch break after four (4) continuous hours of work, as provided in IC 22-2-13-5, the employee is not entitled to a rest break after the second two (2) hour period.

(d) This section does not apply when the employer has only one (1) employee on duty during a period of four (4) or more consecutive hours.

Sec. 6. (a) A person who violates this chapter commits a Class C infraction.

(b) Each time a person violates this chapter, the person commits a separate infraction."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1670 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 8, nays 4.

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